



September 16, 2016

Via ECFS

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Ex Parte Presentation; Amendments to Part 4 of the Commission's Rules Concerning Disruptions to Communications, PS Docket No. 15-80; New Part 4 of the Commission's Rules Concerning Disruptions to Communications, ET Docket No. 04-35; The Proposed Extension of Part 4 of the Commission's Rules Regarding Outage Reporting to Interconnected Voice Over Internet Protocol Service Providers and Broadband Internet Service Providers, PS Docket No. 11-82

Dear Ms. Dortch:

On Sept. 14, 2016, Ross J. Lieberman, Senior Vice President of Government Affairs, and Mary Lovejoy, Vice President of Regulatory Affairs, American Cable Association ("ACA"), Robert Gessner, Chairman, ACA (and President, MCTV), Elizabeth Cuttner, Cinnamon Mueller, and the undersigned, representing ACA, met with Theodore Marcus, Deputy Division Chief, and John Healy, Associate Division Chief, Cybersecurity and Communications Reliability Division, Public Safety and Homeland Security Bureau ("PSHSB"), and Michael Caiafa, Steven McKinnon, Joseph Schlingbaum, Peter Shroyer, and Julia Tu, of the PSHSB, to discuss ACA's position regarding the Commission's proposals to amend its Part 4 outage reporting requirements and extend such reporting requirements to broadband providers consistent with ACA's filings in the above referenced proceeding.¹

To start the meeting, ACA explained that its member companies, because they often live in the communities they serve, and have family and friends as customers, care very deeply about ensuring that their customers maintain uninterrupted access to emergency services, and when problems do arise, take immediate steps to restore service.² ACA also expressed its understanding of the Commission's interest in updating its outage reporting rules to reflect transitions in the technologies consumers use to access emergency services from voice telephony to IP-based services, including broadband Internet access service ("BIAS"). With these facts in mind, meeting participants discussed ways in which the Commission can obtain the network outage reporting

¹ *Amendments to Part 4 of the Commission's Rules Concerning Disruptions to Communications, New Part 4 of the Commission's Rules Concerning Disruptions to Communications, and The Proposed Extension of Part 4 of the Commission's Rules Regarding Outage Reporting to Interconnected Voice Over Internet Protocol Service Providers and Broadband Internet Service Providers*, Report and Order, Further Notice of Proposed Rulemaking, and Order on Reconsideration, 31 FCC Rcd 5817 (2016) ("Order" and "Further Notice"); Comments of the American Cable Association (filed Aug. 26, 2016) ("ACA Comments"); Reply Comments of the American Cable Association (filed Sept. 12, 2016) ("ACA Reply Comments").

² ACA Comments at 8.

information to carry out its public safety mission without exceeding its statutory authority or imposing undue and excessive monitoring and reporting burdens, particularly on smaller providers.

ACA representatives focused primarily on concerns with proposals in the Further Notice that would (i) mandate outage reporting for “performance degradation” events affecting broadband and interconnected VoIP subscribers that do not result in a complete loss of service; (ii) set reporting thresholds on standards not in use by industry today that would be complex and difficult for operators to implement; and (iii) require broadband Internet access service (“BIAS”) providers to serve as central reporting points for broadband outages.³

ACA reiterated its opposition to outage reporting requirements for performance degradation, defined as the loss of “generally useful availability and connectivity,” which would require the installation and maintenance of costly monitoring equipment both in the headend and at the subscriber premises, as well as recordkeeping necessary for reporting purposes.⁴ ACA member companies today do not monitor or collect this information in the ordinary course of business. Moreover, the proposed performance degradation metrics under consideration – throughput, latency, and packet loss – related to service quality do not necessarily relate to the ability to use an IP-based service or reach 911 emergency services.

Rather, ACA encouraged the Commission to focus on loss of connectivity and ability to reach 911 emergency services. Mr. Gessner explained that reporting for “hard down” outages is preferable for operators because they have the means to determine if a significant percentage of, or the entire network has lost connectivity. Monitoring for degraded service in the way the rulemaking proposes, in contrast, particularly at the individual level, is not possible for most, if not all BIAS providers with existing equipment in their customers’ homes, even assuming that a workable definition could be crafted for outage reporting purposes. It would be financially and operationally challenging to install the necessary devices and time consuming to obtain that data. Mr. Gessner explained that it would take an hour to pull the data on a single metric – “receive power,” for example – from all 40,000 cable modems served; for MCTV to gather that data in real-time or at five-minute intervals, as contemplated in the Further Notice,⁵ would take half a day. Meeting participants also discussed how best to define such a “hard down” outage in the context of broadband services so as to capture significant outages affecting the ability of consumers to reach 911 emergency services.

ACA also reiterated its position that reporting thresholds and metrics should be set at an appropriately high level to capture only significant outages, and that the thresholds and metrics be easily comprehensible so that the compliance obligation is not unduly burdensome.⁶ Mr. Gessner explained that using the proposed threshold expressed in terms of Gigabits per second may potentially be useful for reporting an outage based on an inability to send data from the headend upstream over a transport facility. However, it is not appropriate for determining an outage occurring downstream on the consumer’s side because of the lack of equipment in consumers homes that would permit such a calculation and, even if that equipment were to be installed, because of the complexity of the calculations involved in determining whether the degradation triggered the reporting threshold. In contrast, he affirmed that the current threshold standard of “30 minutes or more, affecting potentially 900,000 user minutes” is easy to understand, and easy to calculate for the network operator.

³ ACA Comments at 10-20; ACA Reply Comments at 11-16.

⁴ ACA Comments at 11-17; ACA Reply Comments at 13-14.

⁵ Further Notice, ¶ 141.

⁶ ACA Comments at 17-19; ACA Reply Comments at 11-13.

Finally, ACA addressed the issue of requiring BIAS providers to act as the central reporting point for all broadband outages and reiterated its opposition to mandating such reporting.⁷ As ACA has explained in its Comments, that would be objectionable for several reasons, including the fact that doing so would require information that smaller providers simply do not have.⁸ Mr. Gessner pointed out that if one of MCTV's upstream connectivity suppliers had an outage that met a reporting threshold, resulting in a reportable loss of connectivity for MCTV subscribers, he would include such information in MCTV's outage report. What he would not have or could not definitely obtain, for example, are details about the cause of the outage or remediation measures. Mr. Gessner explained that requiring BIAS providers to obtain such outage details from upstream suppliers would place an impossible burden on smaller providers because they have no leverage to obtain that information from large connectivity suppliers such as Cogent or Zayo, because smaller BIAS providers represent such a miniscule portion of their business.

In closing, ACA affirmed its willingness to work with the Commission to find workable solutions to the problems it has identified with respect to the proposed rules to allow the Commission to carry out its public safety mission.

This letter is being filed electronically pursuant to section 1.1206 of the Commission's rules.

Sincerely,



Barbara Esbin

cc: Michael Caiafa
John Healy
Theodore Marcus
Steven McKinnon
Joseph Schlingbaum
Peter Shroyer
Julia Tu

⁷ ACA Comments at 19-20; ACA Reply Comments at 14-16.

⁸ ACA Comments at 20; ACA Reply Comments at 15.